

## REMARKS

The Office Action of July 18, 2006, has been carefully considered.

### Rejections Based on 35 USC § 102

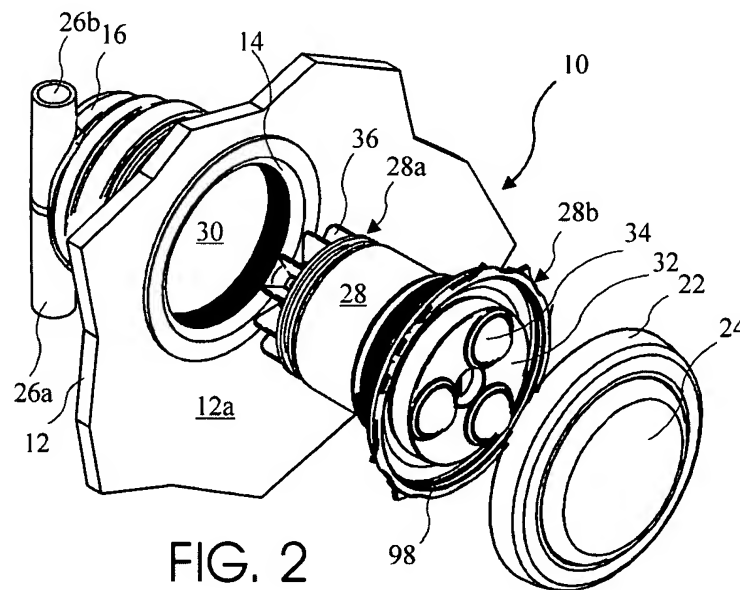
The Office Action rejected Claims 1-4, 8-9, 13-14, and 18-19 under 35 USC § 102(b) as anticipated by Elnar (US 6,387,063). The Applicant respectfully traverses the rejection of Claim 1. The original Claim 1 recites:

"a gear housing having a turbine end and a massager end, said gear housing being removably supported in said interior space of said main housing, wherein said massager end resides proximal to said spa surface, **said gear housing (20) being removable from said main housing interior space (30) through said main housing wall mounting end**"

and,

"a rotating massager mechanically coupled to said turbine and residing proximal to said massager end of said gear housing, wherein said rotating massager extends past the spa surface and into the spa."

and the original FIG. 2 shows:



The '063 patent shows a gear housing 45 residing on a back surface of a main housing 14 (see FIG. 2 of the '063 patent), not in the interior space of the main housing, and not removable through the main housing wall mounting end. These are important features of the present invention which permit easy maintenance of the massager without having to access the area behind the outer surface of the spa, which may be very difficult. Claim 1 further recites a rotating massager and the '063 patent disclose a vertically-oscillating massager. Because the '063 patent does not disclose a gear housing residing inside the main housing and being removable from the main housing through a main housing wall mounting end, and does not disclose a vertically-oscillating massager, the Applicant believes that the '063 patent does not anticipate the original Claim 1 and the Applicant respectfully requests that the Examiner withdraw the rejection of Claim 1 and advance the amended Claim 1 to allowance.

The Applicant respectfully traverses the rejection of Claim 4. The original Claim 4 includes "at least one planetary gear assembly". The '063 patent discloses "a gearbox 45 enclosing a gear train" shown in FIG. 2 of the '063 patent. A planetary gear assembly comprises a center input (or sun) gear 56, planetary gears 58 engaging the sun gear, and a ring gear 52 engaging the planetary gears. The ring gear is generally part of a housing containing the sun gear and planet gears, and axes of the planetary gears rotate with an output gear hub 62a. FIG. 5 of the present application shows these relationships:

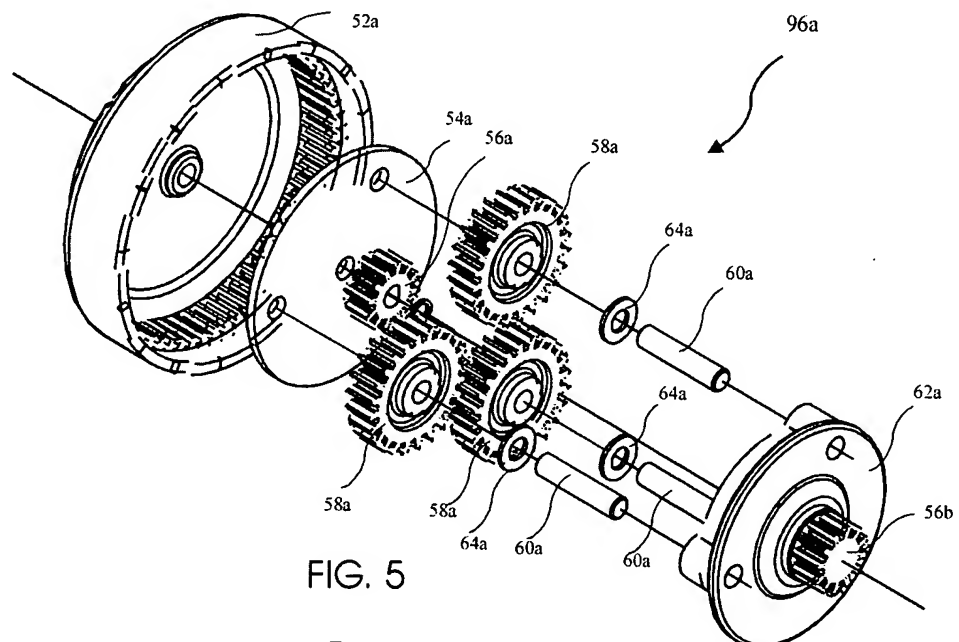


FIG. 2 of the '063 patent shows the water turbine 42 offset from the gearbox 45. Because FIG. 2 of the '063 patent does not show a centered input shaft, and the written specification of the '063 patent does not mention a planetary gear assembly, the Applicant believes that the '063 patent does not disclose a planetary gear assembly and therefore believes that the original Claim 4 is in condition for allowance and respectfully requests that the Examiner withdraw the rejection of Claim 4 and advance Claim 4 to allowance.

Claim 9 is herein amended and now recites:

"a turbine housing attached to said main housing exterior end, said turbine housing including the water inlet and the water outlet, wherein the gear housing including the turbine is removable from said main housing interior space through said main housing wall mounting end without removing the turbine housing."

As recited in the herein amended Claim 9, and shown in FIG. 2 of the present application, the turbine housing 16 is attached to the main housing 14 not to the gear housing 28 and the turbine 36 may be removed with the gear housing 28 through a mouth of the main housing 14. The turbine housing of the '063 patent is attached to the gear housing 45, not to the main housing 14 of the '063 patent, and the turbine of the '063 patent is not removable with the gear housing without disturbing the turbine housing. Attaching the turbine housing to the main housing allows the gear housing 28, which the turbine 36 is attached to, to be removed for service without dealing with water hoses, pipes, lines, etc, and allows easy maintenance of the massager without having to access the area behind the outer surface of the spa, which may be very difficult. Because the '063 patent does not disclose a turbine housing 42 attached to the main housing 14, and because the turbine of the '063 patent may not be removed without disturbing the turbine housing 42, the Applicant believes that the herein amended Claim 9 is in condition for allowance and respectfully requests that the Examiner withdraw the rejection of Claim 9 and advance the amended Claim 9 to allowance.

Claims 2, 3, 8 and 13 depend from Claim 1. Because the Applicant believes that Claim 1 is in condition for allowance, the Applicant also believes that Claims 2, 3, 8 and 13 are in condition for allowance and respectfully requests that the Examiner withdraw the rejections of Claims 2, 3, 8 and 13 and advance Claims 2, 3, 8 and 13 to allowance.

Claim 14 is herein amended to include:

"injecting a flow of water through a turbine residing behind a spa wall;  
directing the flow of water against blades of a turbine to spin the turbine;  
coupling the rotation of the turbine to a pinion gear of a planetary gear set";  
and  
"rotationally coupling the rotation of the pinion gear through the planetary gear set to a rotating massager residing proximal to a spa wall, wherein the coupling through the planetary gear set reduces the rotational speed of the rotating massager relative to the turbine."

The amended Claim 14 includes coupling the turbine through planetary gears to the rotating massager and thereby reducing the rotational speed of the rotating massager. The '063 patent does not include planetary gears or a rotating massager. Because the '063 patent does not disclose all the elements of Claim 14, the Applicant believes that the herein amended Claim 14 is in condition for allowance and respectfully requests that the Examiner withdraw the rejection of Claim 14 and advance the amended Claim 14 to allowance.

Claim 18 is herein amended to recite:

"a rotation rate reduction planetary gear assembly connected to the turbine; and  
a rotating massager connected to the rotation rate reduction mechanism."

The '063 patent does not disclose a rotation rate reduction planetary gear assembly or a rotating massager. Because the '063 patent does not disclose all the

elements of the amended Claim 18, the Applicant believes that the herein amended Claim 18 is in condition for allowance and respectfully requests that the Examiner withdraw the rejection of Claim 18 and advance the amended Claim 18 to allowance.

Claim 19 depends from Claim 18. Because the Applicant believes that Claim 18 is in condition for allowance, the Applicant also believes that Claim 19 is in condition for allowance and respectfully requests that the Examiner withdraw the rejections of Claim 19 and advance Claim 19 to allowance.

### **Rejections Based on 35 USC § 103**

The Office Action rejected Claims 5-7 and 15-17 under 35 USC § 103(a) as unpatentable over Elnar (US 6,387,063). Claims 5-7 depend from Claim 1. Because the prior art does not teach a gear housing residing inside a main housing and being removable from the main housing through a main housing wall mounting end, the Applicant believes that Claim 1 is in condition for allowance, the Applicant also believes that Claims 5-7 are in condition for allowance and respectfully requests that the Examiner withdraw the rejections of Claims 5-7 and advance Claims 5-7 to allowance.

Claims 15-17 depend from Claim 14. Because the Applicant believes that Claim 14 is in condition for allowance, the Applicant also believes that Claims 15-17 are in condition for allowance and respectfully requests that the Examiner withdraw the rejections of Claims 15-17 and advance Claims 15-17 to allowance.

The Office Action rejected Claims 10 and 20 under 35 USC § 103(a) as unpatentable over Elnar (US 6,387,063) in view of Prehodka. Prehodka does not suggest a gear housing residing inside a main housing and being removable from the main housing through a main housing wall mounting end. Claim 10 depends from Claim 1. Because the Applicant believes that Claim 1 is in condition for allowance, the Applicant also believes that Claim 10 is in condition for allowance and respectfully

requests that the Examiner withdraw the rejections of Claim 10 and advance Claim 10 to allowance.

Claim 20 depends from Claim 18. Because the Applicant believes that Claim 18 is in condition for allowance, the Applicant also believes that Claim 20 is in condition for allowance and respectfully requests that the Examiner withdraw the rejections of Claim 20 and advance Claim 20 to allowance.

## CONCLUSIONS

Claims 1-20 remain pending in the application. Claims 14, and 18 have been amended to overcome rejections. Applicant respectfully requests that the Examiner advance Claims 1-20 to allowance.

Respectfully submitted,



Kenneth L. Green

Attorney for Applicant

Reg. No. 44,724

Averill & Varn  
8244 Painter Avenue  
Whittier, CA 90602  
(562) 698-8039